

**8.505 Contract clause.**

Insert the clause at 52.208–8, Required Sources for Helium and Helium Usage Data, in solicitations and contracts if it is anticipated that performance of the contract involves a major helium requirement.

### **Subpart 8.6—Acquisition From Federal Prison Industries, Inc.**

SOURCE: 69 FR 16149, Mar. 26, 2004, unless otherwise noted.

**8.601 General.**

(a) Federal Prison Industries, Inc. (FPI), also referred to as UNICOR, is a self-supporting, wholly owned Government corporation of the District of Columbia.

(b) FPI provides training and employment for prisoners confined in Federal penal and correctional institutions through the sale of its supplies and services to Government agencies (18 U.S.C. 4121–4128).

(c) FPI diversifies its supplies and services to minimize adverse impact on private industry.

(d) Supplies manufactured and services performed by FPI are listed in the FPI Schedule, which can be accessed at <http://www.unicor.gov> or by submitting a written request to Federal Prison Industries, Inc., Department of Justice, Washington, DC 20534.

(e) Agencies are encouraged to purchase FPI supplies and services to the maximum extent practicable.

[69 FR 16149, Mar. 26, 2004, as amended at 70 FR 18958, Apr. 11, 2005]

**8.602 Policy.**

(a) In accordance with 10 U.S.C. 2410n and Section 637 of Division H of the Consolidated Appropriations Act, 2005 (Pub. L. 108–447), and except as provided in paragraph (b) of this section, agencies shall—

(1) Before purchasing an item of supply listed in the FPI Schedule, conduct market research to determine whether the FPI item is comparable to supplies available from the private sector that best meet the Government's needs in terms of price, quality, and time of delivery. This is a unilateral determination made at the discretion of the con-

tracting officer. The arbitration provisions of 18 U.S.C. 4124(b) do not apply;

(2) Prepare a written determination that includes supporting rationale explaining the assessment of price, quality, and time of delivery, based on the results of market research comparing the FPI item to supplies available from the private sector;

(3) If the FPI item is comparable, purchase the item from FPI following the ordering procedures at <http://www.unicor.gov>, unless a waiver is obtained in accordance with 8.604; and

(4) If the FPI item is not comparable in one or more of the areas of price, quality, and time of delivery—

(i) Acquire the item using—

(A) Competitive procedures (*e.g.*, the procedures in 6.102, the set-aside procedures in subpart 19.5, or competition conducted in accordance with part 13); or

(B) The fair opportunity procedures in 16.505, if placing an order under a multiple award delivery-order contract;

(ii) Include FPI in the solicitation process and consider a timely offer from FPI for award in accordance with the item description or specifications, and evaluation factors in the solicitation—

(A) If the solicitation is available through the Governmentwide point of entry (FedBizOpps), it is not necessary to provide a separate copy of the solicitation to FPI;

(B) If the solicitation is not available through FedBizOpps, provide a copy of the solicitation to FPI;

(iii) When using a multiple award schedule issued under the procedures in Subpart 8.4 or when using the fair opportunity procedures in 16.505—

(A) Establish and communicate to FPI the item description or specifications, and evaluation factors that will be used as the basis for selecting a source, so that an offer from FPI can be evaluated on the same basis as the contract or schedule holder; and

(B) Consider a timely offer from FPI;

(iv) Award to the source offering the item determined by the agency to provide the best value to the Government; and